

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

-----X  
ROBERT J. WILSON and TERE  
WILSON, his wife,

Plaintiffs,

v.

OMAHA STANDARD, INC., OMAHA  
STANDARD, LLC, AMERICAN ROLL-  
OFF, PALFINGER AMERICAN ROLL-  
OFF, PALFINGER USA, INC.,  
KENWORTH, PACCAR, INC., ROLL-  
RITE, LLC, PV DEROCHE LLC,  
GABRIELLI KENWORTH OF NEW  
JERSEY, LLC, JOHN DOES 1-20  
(fictitious names), ABC CORP. 1-20  
(fictitious names),

Defendants.  
-----X

Civ. No.: 2:18-cv-03729

Civil Action

**AMENDED COMPLAINT,  
and JURY DEMAND**

Plaintiffs, ROBERT WILSON and TERE WILSON, his wife (hereinafter  
"Plaintiffs"), residing in Raritan, Somerset County, State of New Jersey, by and through  
their attorneys, Wilentz, Goldman & Spitzer, P.C., by way of Amended Complaint  
against the Defendants, respectfully allege as follows:

**SUBJECT MATTER (DIVERSITY) JURISDICTION**

1. At all times relevant herein, ROBERT WILSON and TERE WILSON, his  
wife (hereinafter "Plaintiffs"), have resided in Raritan, Somerset County, and have been  
citizens of the State of New Jersey.

2. At all times relevant herein, Defendant, OMAHA STANDARD, LLC, was a limited liability company, and/or other business entity authorized to transact and conduct business in the State of New Jersey, and PALFINGER USA, INC., was the sole member of Omaha Standard, LLC. At all times relevant herein, Defendant, OMAHA STANDARD, LLC has been a citizen of Ohio and Delaware.

3. At all times relevant herein, Defendant, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF and/or PALFINGER USA, INC., was a profit corporation and/or other business entity authorized to transact and conduct business in the State of New Jersey, with a main business address at 4151 West State Route 18, Tiffin, Ohio. At all times relevant herein, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF and/or PALFINGER USA, INC., has been as a citizen of Ohio and/or Delaware.

4. At all times relevant herein, Defendant, KENWORTH and/or PACCAR, INC. was a profit Delaware corporation and/or other business entity authorized to transact and conduct business in the State of New Jersey, with a principal business in the State of Washington. Thus, at all times relevant herein, Defendant, KENWORTH and/or PACCAR, INC. has been as a citizen of Delaware and/or Washington.

5. At all times relevant herein, Defendant, Roll-Rite, LLC, was a Delaware limited liability company and/or other business entity authorized to transact and conduct business in the State of New Jersey, with a principal business address in Delaware and/or Michigan. Thus, at all times relevant herein, Defendant, Roll-Rite, LLC has been a citizen of Delaware and/or Michigan.

6. At all times relevant herein, Defendant, PV Deroche, LLC, was a Delaware limited liability company and/or other business entity authorized to transact and conduct business in the State of New Jersey. All members of Defendant, PV Deroche, LLC, are citizens of Pennsylvania. At all times relevant herein, PV Deroche, LLC, has been a citizen of Pennsylvania.

7. At all times relevant herein, Defendant, Gabrielli Kenworth of New Jersey, LLC, was a New Jersey limited liability company and/or other business entity authorized to transact and conduct business in the State of New Jersey. All members of Defendants, Gabrielli Kenworth of New Jersey, LLC, have been citizens of New York. At all times relevant herein, Gabrielli Kenworth of New Jersey, LLC, has been a citizen of New York.

8. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

9. This Court, therefore, has subject matter (diversity) jurisdiction in this action pursuant to 28 U.S.C. §1332.

#### **PERSONAL JURISDICTION**

10. At all times relevant herein, all of the named defendants have conducted business in the State of New Jersey.

11. At all times relevant herein, the tortious conduct of the named defendants and/or the accident or occurrence, which is the subject of this action, occurred in the State of New Jersey. The product, which is the subject of this product liability action,

was manufactured, marketed, sold, distributed, installed and/or used in the State of New Jersey.

12. This Court, therefore, has personal jurisdiction over each of the aforementioned defendants.

### **VENUE**

13. Venue is proper in the District of New Jersey pursuant to 28 U.S.C. §1391(b) in that it is the judicial district in which a substantial part of the events giving rise to the claims occurred.

### **FIRST COUNT**

14. At all times relevant herein, and, more specifically, prior to December 14, 2016, Defendants, OMAHA STANDARD, INC., OMAHA STANDARD, LLC, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF, PALFINGER USA, INC., KENWORTH, PACCAR, INC., ROLL-RITE, LLC, PV DEROCHE LLC, GABRIELLI KENWORTH OF NEW JERSEY, LLC, and/or JOHN DOES 1-5 (fictitious names representing as yet unidentified individuals), and/or ABC CORP. 1-5 (fictitious names representing as yet unidentified business entities), designed, manufactured, formulated, constructed, produced, created, assembled, packaged, labeled, installed, modified, maintained, repaired, distributed, sold, leased, marketed, and/or otherwise placed in the line of commerce a certain product identified or described herein as a 2017 Kenworth Truck, Vehicle Identification Number 1NKDXPTX7HJ134779, including any and all component parts thereto, including (more specifically) the tarp system / cover roller (hereinafter collectively “the subject Product” or “the subject Truck”).

15. On or about December 14, 2016, the subject Truck was owned by SAKOUTIS BROTHERS DISPOSAL, INC., Plaintiff, ROBERT J. WILSON's employer at the time.

16. At all times relevant herein, and, more specifically, prior to December 14, 2016, SAKOUTIS BROTHERS DISPOSAL, INC., had purchased the subject Truck new and fully assembled, including any and all component parts thereto, including (most specifically) the tarp system / cover roller.

17. On or about December 14, 2016, while in the course of employment with SAKOUTIS BROTHERS DISPOSAL, INC., at its facility located at 2101 Roosevelt Avenue, South Plainfield, Middlesex County, New Jersey, Plaintiff, ROBERT J. WILSON, was severely injured while using, operating, inspecting, and/or otherwise exposed to or coming in contact with the subject Truck (including any and all component parts thereto, including (more specifically) the tarp system / cover roller) in a reasonably foreseeable manner, when the subject Truck's aforementioned tarp system / cover roller collapsed onto Plaintiff's head.

18. On or about December 14, 2016, Plaintiff, ROBERT J. WILSON was severely and permanently injured.

19. The subject Truck (including any and all component parts thereto, including (more specifically) the tarp system / cover roller), as designed, manufactured, formulated, constructed, produced, created, assembled, packaged, labeled, installed, modified, maintained, repaired, distributed, sold, leased, marketed, and/or otherwise placed in the line of commerce by the Defendants, OMAHA STANDARD, INC., OMAHA

STANDARD, LLC, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF, PALFINGER USA, INC., KENWORTH, PACCAR, INC., ROLL-RITE, LLC, PV DEROCHE LLC, GABRIELLI KENWORTH OF NEW JERSEY, LLC, and/or JOHN DOES 1-5 (fictitious names representing as yet unidentified individuals), and/or ABC CORP. 1-5 (fictitious names representing as yet unidentified business entities), was defective and/or unreasonably dangerous in the condition that it was placed into the stream of commerce, which in turn proximately caused the subject incident and Plaintiff, ROBERT J. WILSON's consequent severe and permanent injuries.

20. As a direct and proximate result of the defective and dangerous condition of the subject Truck, Plaintiff, Robert J. Wilson, sustained serious and permanent injuries, requiring multiple surgeries and other ongoing treatment to date.

21. As a direct and proximate result of the defective and dangerous condition of the subject Truck (including any and all component parts thereto, including (more specifically) the tarp system / cover roller), Plaintiff, ROBERT J. WILSON, suffered serious and permanent injuries, was caused to endure severe and excruciating pain and suffering that is likely to continue for the remainder of his life, was forced to incur significant medical expenses attributable to the above-described injuries, suffered severe and permanent scarring, was caused to miss extensive time from work, and was and in the future will be prevented from attending to his normal business and activities.

22. Defendants, OMAHA STANDARD, INC., OMAHA STANDARD, LLC, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF, PALFINGER USA, INC., KENWORTH, PACCAR, INC., ROLL-RITE, LLC, PV DEROCHE LLC, GABRIELLI

KENWORTH OF NEW JERSEY, LLC, and/or JOHN DOES 1-5 (fictitious names representing as yet unidentified individuals), and/or ABC CORP. 1-5 (fictitious names representing as yet unidentified business entities), are liable to the Plaintiffs under the Doctrine of Strict Liability and/or the New Jersey Product Liability Act.

**WHEREFORE**, Plaintiff, ROBERT J. WILSON demands judgment against Defendants, OMAHA STANDARD, INC., OMAHA STANDARD, LLC, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF, PALFINGER USA, INC., KENWORTH, PACCAR, INC., ROLL-RITE, LLC, PV DEROCHE LLC, GABRIELLI KENWORTH OF NEW JERSEY, LLC, and/or JOHN DOES 1-5 (fictitious names representing as yet unidentified individuals), and/or ABC CORP. 1-5 (fictitious names representing as yet unidentified business entities), awarding damages, interest, costs, and counsel fees associated with the suit on this Count.

### **SECOND COUNT**

23. Plaintiffs hereby repeat and re-allege the allegations contained in the First Count of the Complaint as if set forth herein in their entirety.

24. Defendants, OMAHA STANDARD, INC., OMAHA STANDARD, LLC, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF, PALFINGER USA, INC., KENWORTH, PACCAR, INC., ROLL-RITE, LLC, PV DEROCHE LLC, GABRIELLI KENWORTH OF NEW JERSEY, LLC, and/or JOHN DOES 1-5 (fictitious names representing as yet unidentified individuals), and/or ABC CORP. 1-5 (fictitious names representing as yet unidentified business entities), are liable to the Plaintiffs under the Doctrines of Negligence, Breach of Warranty, and/or other Common Law Tort doctrines.

**WHEREFORE**, Plaintiff, ROBERT J. WILSON demands judgment against Defendants, OMAHA STANDARD, INC., OMAHA STANDARD, LLC, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF, PALFINGER USA, INC., KENWORTH, PACCAR, INC., ROLL-RITE, LLC, PV DEROCHE LLC, GABRIELLI KENWORTH OF NEW JERSEY, LLC, and/or JOHN DOES 1-5 (fictitious names representing as yet unidentified individuals), and/or ABC CORP. 1-5 (fictitious names representing as yet unidentified business entities), awarding damages, interest, costs, and counsel fees associated with the suit on this Count.

**THIRD COUNT**

25. Plaintiffs repeat each and every allegation of the First and Second Counts of this Complaint and incorporate them herein by reference as if fully set forth at length.

26. Plaintiff, TERE WILSON, is the wife of Plaintiff, ROBERT J. WILSON.

27. As a result of the aforementioned injuries suffered by Plaintiff, ROBERT J. WILSON, Plaintiff, TERE WILSON, has and will in the future suffer the loss of the usual services and consortium of her husband, and has been required to provide special services to Robert J. Wilson.

**WHEREFORE**, Plaintiff, TERE WILSON, demands judgment against the Defendants, OMAHA STANDARD, INC., OMAHA STANDARD, LLC, AMERICAN ROLL-OFF, PALFINGER AMERICAN ROLL-OFF, PALFINGER USA, INC., KENWORTH, PACCAR, INC., ROLL-RITE, LLC, PV DEROCHE LLC, GABRIELLI KENWORTH OF NEW JERSEY, LLC, and/or JOHN DOES 1-5 (fictitious names representing as yet unidentified individuals), and/or ABC CORP. 1-5 (fictitious names

representing as yet unidentified business entities), either jointly, severally or in the alternative for damages, interest, attorney's fees and costs of suit.

**JURY DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

Dated: May 9, 2018

**WILENTZ, GOLDMAN & SPITZER, PA**  
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By:   
ALEX LYUBARSKY (3816)